

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of TARA HASS and U.S. POSTAL SERVICE,
POST OFFICE, Van Nuys, Calif.

*Docket No. 97-711; Submitted on the Record;
Issued February 1, 1999*

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,
MICHAEL E. GROOM

The issue is whether the Office of Workers' Compensation Programs met its burden of proof in terminating appellant's compensation benefits effective December 9, 1995.

The Board has duly reviewed the case record and concludes that the Office met its burden of proof to terminate compensation benefits.

On September 2, 1986 appellant, then a 29-year-old mail processing clerk, filed a claim for occupational disease alleging that she developed an emotional condition as a result of factors of her federal employment. The Office accepted appellant's claim for aggravation of a personality disorder on August 9, 1990, and began paying appropriate compensation benefits for temporary total disability.

On November 10, 1995 based on the opinion of Dr. Joseph Ezra, a Board-certified psychiatrist and Office second opinion physician, the Office issued a notice of proposed termination. In his reports dated April 5 and July 26, 1995, Dr. Ezra opined that appellant suffered from paranoid schizophrenia, neither caused nor contributed to by factors of her employment as defined by the Office.

In response to the notice, appellant submitted additional medical evidence in support of her claim. In a decision dated November 30, 1995, the Office terminated appellant's compensation benefits on the grounds that the weight of the medical evidence of record, represented by the well-reasoned report of Dr. Ezra, established that appellant's employment-related emotional condition had ceased.

On March 13, 1996 appellant, through counsel, requested reconsideration of the Office's November 30, 1995 decision and submitted a medical report from Dr. Barbara A. Sziraki, a licensed clinical psychologist, in support of her request. In her report dated January 17, 1996, Dr. Sziraki disagreed with Dr. Ezra's diagnosis of nonindustrial paranoid schizophrenia, and

instead listed her primary diagnosis as major depressive disorder, causally related to accepted factors of appellant's employment. The Office determined that the report of Dr. Sziraki was sufficient to create a conflict with the opinion of Dr. Ezra, and to require further medical development of the claim.

To resolve the conflict in medical opinion evidence between Drs. Ezra and Sziraki, the Office referred appellant, along with a statement of accepted facts and copies of the relevant medical evidence of record, to an impartial medical specialist, Dr. John Hochman, a Board-certified psychiatrist. In his report dated July 3, 1996, based on extensive psychological testing and examination, patient history, and a review of the medical evidence of record, Dr. Hochman diagnosed appellant as suffering from schizophrenia, paranoid type, episodic with interepisode residual symptoms, dysthymia. He stated that schizophrenia is a disorder of unknown cause, although genetic factors are sometimes seen to play a part, and that its course unfolds early in adult life, unrelated to any environmental factors. Dr. Hochman stressed that appellant's schizophrenia was not caused, aggravated, or precipitated by her routine job duties with the employing establishment, and that she had no residuals related to factors of her federal employment.

In a decision dated July 23, 1996, the Office found that the weight of the medical evidence of record, represented by the opinion of the independent medical examiner, established that appellant has no continuing disability or residuals causally related to her previously accepted emotional condition and thus found the evidence of record insufficient to warrant modification of the prior decision.

Once the Office accepts a claim, it has the burden of justifying termination or modification of compensation benefits. After it has determined that an employee has disability causally related to his or her federal employment, the Office may not terminate compensation without establishing that the disabling condition has ceased or that it is no longer related to the employment.¹ In terminating benefits, the Office relied on the opinion of Dr. Hochman, as the independent medical examiner, that appellant has no residuals causally related to accepted factors of her employment, and that her current psychiatric condition is not causally related to factors of her employment. In situations where there are opposing medical reports of virtually equal weight and rationale, and the case is referred to an independent medical examiner for the purpose of resolving the conflict, the opinion of such specialist, if sufficiently well rationalized and based on a proper factual background, must be given special weight.² The Board finds that Dr. Hochman's opinion is complete and well rationalized in establishing that appellant's work-related aggravation of personality disorder has ceased. Dr. Hochman reviewed appellant's medical history at length, reviewed all the relevant diagnostic tests and performed a psychiatric examination, and concluded that appellant's current psychiatric condition is not work related. As the independent medical examiner, Dr. Hochman's opinion constitutes the weight of the medical evidence. The Office therefore properly relied on his opinion in terminating benefits.

¹ *Patricia A. Keller*, 45 ECAB 278 (1993).

² *Kathryn Haggerty*, 45 ECAB 383, 389 (1994); *Jane B. Roanhaus*, 42 ECAB 288 (1990).

The decisions of the Office of Workers' Compensation Programs dated July 23, 1996 and November 30, 1995 are hereby affirmed

Dated, Washington, D.C.
February 1, 1999

David S. Gerson
Member

Willie T.C. Thomas
Alternate Member

Michael E. Groom
Alternate Member